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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,582	04/03/2001	Steven R. Reznek	00141	9948

7590 04/16/2004

EXAMINER
WINTER, GENTLE E

ART UNIT	PAPER NUMBER
1746	

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DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/825,582	REZNEK, STEVEN R.	
	Examiner	Art Unit	
	Gentle E. Winter	1746	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-3,7-14 and 17-29*.

   Claim(s) withdrawn from consideration: *5,6,15,16 and 30-34*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

ALEXANDER MARKOFF
PRIMARY EXAMINER

Continuation of 2. NOTE: Applicant argued that the oxidizing source used in the claimed invention is not taught in Ullmann. Applicant points to the specification, and argues that examples of the oxidizing component in the claimed invention are air, oxygen, or both. Claim does not disclose the limitation, and it is improper to read limitations from the specification into the claims. That said even if the claim did recite air oxygen or both, Ullmann similarly discloses "air or oxygen containing gases". Column 1, page 128, and also see figures disclosing air and gas. Applicant goes on to indicate that the air disclosed at page 125 is used for producing oxides during or after the activation process. If air is supplied during the activation process in the prior art and in the claim, the claim limitations, as argued to exist, are met.

Applicant argues that the prior art of record, contextually, does not disclose combusting fuel. This limitation is not in the claim either. Applicant argues that "oxygen or air is unsuitable as activating gases" (page 131). Again, the claim and the art both disclose activating gases. At 800C "some of the carbonaceous starting material is decomposed". Applicant appears to get the same result with the same starting material and the same method steps.

Applicant also suggested that the prior art of record fails to disclose a separate fuel and pyrolizable material. Ullmann discloses 800C temperature and discloses that "some of the carbonaceous starting material is decomposed". The decomposition of the carbon in the presence of an oxidizing agent (even if it is steam) is an exothermic reaction. If applicant's position were accepted, then the furnace of 128 would be irrelevant. See 128 column 2.

Applicant also argues that present application "clearly recites that at least one pyrolizable material is introduced into a combustion chamber" by being dispersed in a fuel source or oxidizing source. As an initial matter the position of the Office is set forth in the Office action. The argument: There is no teaching or suggestion in Ullmann of a pyrolizable material being dispersed in any fuel source or oxidizing source" reflects a difference of opinion, and not a misunderstanding. The matter is probably best resolved by having the Board of Appeals and Interferences consider the matter.

The balance of the remarks are either untimely as they could have been presented during prosecution or are substantially cumulative with the arguments of record.